

## **HOUSE BILL No. 1803**

DIGEST OF HB 1803 (Updated February 20, 2001 12:41 PM - DI 103)

**Citations Affected:** IC 5-10.2; IC 5-14; IC 14-22.

**Synopsis:** Indiana investment company. Establishes the Indiana investment company. Requires the public employees' retirement fund and the Indiana state teachers' retirement fund to use the Indiana investment company as the funds' exclusive agent for the management and investment of the funds' assets allocated to private capital investments. Prohibits shooting a firearm along certain portions of the St. Joseph River.

**Effective:** July 1, 2001; January 1, 2002.

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January 17, 2001, read first time and referred to Committee on Commerce, Economic Development and Technology. February 20, 2001, amended, reported — Do Pass.



First Regular Session 112th General Assembly (2001)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in this style type, and deletions will appear in this style type.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or *this style type* reconciles conflicts between statutes enacted by the 2000 General Assembly.

## **HOUSE BILL No. 1803**

A BILL FOR AN ACT to amend the Indiana Code concerning state and local administration.

Be it enacted by the General Assembly of the State of Indiana:

1	SECTION 1. IC 5-10.2-9 IS ADDED TO THE INDIANA CODE
2	AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
3	JANUARY 1, 2002]:

**Chapter 9. Indiana Investment Company** 

- Sec. 1. (a) As used in this chapter, "company" refers to the Indiana investment company established by section 2 of this chapter.
- (b) As used in this chapter, "equity capital" means capital invested in common or preferred stock, royalty rights, limited partnership interests, or any other security or right that is evidence of ownership in a private business.
  - (c) As used in this chapter, "funds" refers to:
- (1) the public employees' retirement fund established by IC 5-10.3-2-1; and
- (2) the Indiana state teachers' retirement fund established by IC 21-6.1-2-1.
- 17 (d) As used in this chapter, "investor group" means an

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1	individual, corporation, partnership, or other lawfully organized
2	entity that is in the business of investing in private capital markets.
3	(e) As used in this chapter, "near-equity capital" means capital
4	invested in unsecured, undersecured, subordinated, or convertible
5	loans or debt securities.
6	(f) As used in this chapter, "private capital" means equity
7	capital and near-equity capital.
8	Sec. 2. (a) There is created a body politic and corporate, not a
9	state agency but an independent instrumentality exercising
10	essential public functions, to be known as the Indiana investment
11	company.
12	(b) The company consists of the following seven (7) members:
13	(1) The lieutenant governor, or the lieutenant governor's
14	designee, who shall serve as the chairperson.
15	(2) The auditor of state, or the auditor of state's designee.
16	(3) The president of the board of trustees of the public
17	employees' retirement fund.
18	(4) The president of the board of trustees of the Indiana state
19	teachers' retirement fund.
20	(5) One (1) member with experience in private capital
21	markets, appointed by the speaker of the house of
22	representatives.
23	(6) One (1) member with experience in private capital
24	markets, appointed by the president pro tempore of the
25	senate.
26	(7) One (1) member who is a member of, and who has at least
27	ten (10) years of creditable service in, either the public
28	employees' retirement fund or the Indiana state teachers'
29	retirement fund, appointed by the lieutenant governor.
30	(c) All members must be residents of Indiana.
31	Sec. 3. All appointments to the company are for terms of four
32	(4) years. Each member holds office for the term of this
33	appointment and continues to serve after the member's
34	appointment expires until the member's successor is appointed and
35	qualified. Any member shall be eligible for reappointment.
36	Sec. 4. (a) The members shall elect from among their number a
37	vice chairperson and other officers as they determine.
38	(b) Each member of the company who is not a state employee is
39	entitled to the minimum salary per diem provided by
40	IC 4-10-11-2.1(b). The member is also entitled to reimbursement
41	for traveling expenses as provided under IC 4-13-1-4 and other
42	expenses actually incurred in connection with the member's duties



as provided in the state policies and procedures established by the Indiana department of administration and approved by the budget agency.

Sec. 5. The powers of the company are vested in the members. Five (5) members of the company constitute a quorum for the transaction of business. The affirmative vote of at least five (5) members is necessary for any action to be taken by the company. Members may vote by written proxy delivered in advance to any other member who is present at the meeting. A vacancy in the membership of the company does not impair the right of a quorum to exercise all rights and perform all duties of the company.

Sec. 6. Meetings of the members of the company shall be held at the call of the chairperson or whenever any two (2) members so request. The members shall meet at least once every three (3) months to attend to the business of the company.

Sec. 7. The executive director employed by the company under section 12(a)(9) of this chapter shall serve as the manager of the company and shall administer, manage, and direct the affairs and activities of the company in accordance with the policies and under the control and direction of the members. The manager shall approve all accounts for salaries, allowable expenses of the company or of any employee or consultant, and expenses incidental to the operation of the company. The manager shall perform other duties as directed by the members in carrying out the purposes of this chapter.

Sec. 8. (a) The manager shall do the following:

- (1) Attend the meetings of the members of the company.
- (2) Keep a record of the proceedings of the company.
- (3) Maintain and be custodian of all books, documents, and papers filed with the company and its official seal.
- (b) The manager may make copies of all minutes and other records and documents of the company and may give certificates under seal of the company to the effect that the copies are true copies. All persons dealing with the company may rely upon such certificates.

Sec. 9. The company may, without the approval of the attorney general or any other state officer, employ legal counsel, technical experts, and such other officers, agents, and employees, permanent or temporary, as it considers necessary to carry out the efficient operation of the company, and shall determine their qualifications, duties, compensation, and terms of service. The members may delegate to the manager or one (1) or more agents or employees of

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the company such administrative duties as they consider proper, including the powers of the company set forth in this section. Employees of the company shall not be considered employees of the state.

Sec. 10. Any member or employee of the company who has, will have, or later acquires an interest, direct or indirect, in any transaction or entity that the company has recommended or manages shall immediately disclose the nature and extent of the interest in writing to the company as soon as the member or employee has knowledge of the actual or prospective interest. The disclosure shall be announced in open meeting and entered upon the minutes of the company. Upon disclosure, the member or employee shall not participate in any action by the company recommending or managing the transaction or entity. However, such an interest does not invalidate actions by the company with the participation of the disclosing member before the time the member became aware of the interest or should reasonably have become aware of the interest.

- Sec. 11. Notwithstanding the provisions of any other law, no officer or employee of the state forfeits office or employment by becoming a member of the company or by providing services to the company.
- Sec. 12. (a) The company is granted all powers necessary or appropriate to carry out and effectuate its public and corporate purposes under this chapter, including but not limited to the following:
  - (1) Have perpetual succession as a body politic and corporate and an independent instrumentality exercising essential public functions.
  - (2) Without complying with IC 4-22-2, adopt, amend, and repeal bylaws, rules, and regulations not inconsistent with this chapter and necessary or convenient to regulate its affairs and to carry into effect the powers, duties, and purposes of the company and conduct its business.
  - (3) Sue and be sued in its own name.
  - (4) Have an official seal and alter it at will.
  - (5) Maintain an office or offices at a place or places within Indiana as it may designate.
  - (6) Make and execute contracts and all other instruments necessary or convenient for the performance of its duties and the exercise of its powers and functions under this chapter.
  - (7) Employ attorneys, accountants, financial experts, and



1	other advisers, consultants, and agents as may be necessary in
2	its judgment and to fix their compensation.
3	(8) Procure insurance against any loss in connection with its
4	property and other assets, including loans and loan notes in
5	amounts and from insurers as it may consider advisable.
6	(9) Employ an executive director and such clerical and other
7	employees as may be necessary to carry out its duties under
8	this chapter.
9	(10) Adopt budgets to carry out its duties under this chapter.
10	(b) The company's powers under this chapter shall be
11	interpreted broadly to effectuate the purposes of this chapter and
12	may not be construed as a limitation of powers.
13	Sec. 13. (a) The company shall:
14	(1) adopt:
15	(A) rules under IC 4-22-2; or
16	(B) a policy;
17	establishing a code of ethics for its employees; or
18	(2) operate under the jurisdiction and rules adopted by the
19	state ethics commission.
20	(b) A code of ethics adopted by rule or policy under this section
21	must be consistent with state law and approved by the governor.
22	Sec. 14. The company is the exclusive agent of the funds for the
23	management and investment of the assets of the funds that are
24	allocated to private capital.
25	Sec. 15. The duties of the company include the following:
26	(1) The development of an allocation strategy for the assets of
27	the funds that are allocated to investment in private capital.
28	(2) The design of programs for the management of the assets
29	of the funds that are allocated to investment in private capital.
30	(3) The solicitation of proposals from qualified investor
31	groups for the investment in private capital in accordance
32	with the programs and strategies developed in subdivisions (1)
33	and (2).
34	(4) The screening and evaluation of proposals received from
35	qualified investor groups for the investment in private capital
36	in accordance with the programs and strategies developed in
37	subdivisions (1) and (2).
38	(5) The preparation of investment recommendations based on
39	the proposals received from qualified investor groups for the
40	investment in private capital.
41	(6) The presentation of investment recommendations to the
42	boards of trustees of the funds based on the proposals



1	received from qualified investor groups for the investment in
2	private capital.
3	(7) As the agent for the funds, the negotiation of participation
4	agreements or other arrangements for investment by the
5	funds in private capital.
6	(8) The administration of the participation agreements or
7	other arrangements involving the investment of the assets of
8	the funds in private capital.
9	(9) The monitoring of the performance of the private capital
10	investments made by the funds.
11	(10) The preparation of reports concerning the performance
12	of the funds' private capital investments and the presentation
13	of those reports to the boards of trustees of the funds.
14	(11) Any other activities necessary to implement the funds'
15	investment in private capital.
16	Sec. 16. The allocation of the assets of the funds to private
17	capital and the investment decisions concerning those allocations
18	remain the responsibility of the boards of trustees of the funds and
19	are not the responsibility of the company.
20	Sec. 17. The company may negotiate with the funds a reasonable
21	fee for its services based on the dollar value of the assets allocated
22	to private capital investment by the funds.
23	Sec. 18. For purposes of IC 34-13-2, IC 34-13-3, and IC 34-13-4,
24	the company and all employees of the company are public
25	employees (as defined in IC 34-6-2-38).
26	SECTION 2. IC 5-14-1.5-6.1, AS AMENDED BY P.L.37-2000,
27	SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
28	JANUARY 1, 2002]: Sec. 6.1. (a) As used in this section, "public
29	official" means a person:
30	(1) who is a member of a governing body of a public agency; or
31	(2) whose tenure and compensation are fixed by law and who
32	executes an oath.
33	(b) Executive sessions may be held only in the following instances:
34	(1) Where authorized by federal or state statute.
35	(2) For discussion of strategy with respect to any of the following:
36	(A) Collective bargaining.
37	(B) Initiation of litigation or litigation that is either pending or
38	has been threatened specifically in writing.
39	(C) The implementation of security systems.
40	(D) The purchase or lease of real property by the governing
41	body up to the time a contract or option to purchase or lease is



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executed by the parties.

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1	However, all such strategy discussions must be necessary for
2	competitive or bargaining reasons and may not include
3	competitive or bargaining adversaries.
4	(3) For discussion of the assessment, design, and implementation
5	of school safety and security measures, plans, and systems.
6	(4) Interviews with industrial or commercial prospects or agents
7	of industrial or commercial prospects by the department of
8	commerce, the Indiana development finance authority, the film
9	commission, the Indiana business modernization and technology
10	corporation, the Indiana investment company, or economic
11	development commissions.
12	(5) To receive information about and interview prospective
13	employees.
14	(6) With respect to any individual over whom the governing body
15	has jurisdiction:
16	(A) to receive information concerning the individual's alleged
17	misconduct; and
18	(B) to discuss, before a determination, the individual's status
19	as an employee, a student, or an independent contractor who
20	is a physician.
21	(7) For discussion of records classified as confidential by state or
22	federal statute.
23	(8) To discuss before a placement decision an individual student's
24	abilities, past performance, behavior, and needs.
25	(9) To discuss a job performance evaluation of individual
26	employees. This subdivision does not apply to a discussion of the
27	salary, compensation, or benefits of employees during a budget
28	process.
29	(10) When considering the appointment of a public official, to do
30	the following:
31	(A) Develop a list of prospective appointees.
32	(B) Consider applications.
33	(C) Make one (1) initial exclusion of prospective appointees
34	from further consideration.
35	Notwithstanding IC 5-14-3-4(b)(12), a governing body may
36	release and shall make available for inspection and copying in
37	accordance with IC 5-14-3-3 identifying information concerning
38	prospective appointees not initially excluded from further
39	consideration. An initial exclusion of prospective appointees from
40	further consideration may not reduce the number of prospective
41	appointees to fewer than three (3) unless there are fewer than

three (3) prospective appointees. Interviews of prospective



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1	appointees must be conducted at a meeting that is open to the
2	public.
3	(11) To train school board members with an outside consultant
4	about the performance of the role of the members as public
5	officials.
6	(12) To prepare or score examinations used in issuing licenses,
7	certificates, permits, or registrations under IC 15-5-1.1 or IC 25.
8	(c) A final action must be taken at a meeting open to the public.
9	(d) Public notice of executive sessions must state the subject matter
10	by specific reference to the enumerated instance or instances for which
11	executive sessions may be held under subsection (b). The requirements
12	stated in section 4 of this chapter for memoranda and minutes being
13	made available to the public is modified as to executive sessions in that
14	the memoranda and minutes must identify the subject matter
15	considered by specific reference to the enumerated instance or
16	instances for which public notice was given. The governing body shall
17	certify by a statement in the memoranda and minutes of the governing
18	body that no subject matter was discussed in the executive session
19	other than the subject matter specified in the public notice.
20	(e) A governing body may not conduct an executive session during
21	a meeting, except as otherwise permitted by applicable statute. A
22	meeting may not be recessed and reconvened with the intent of
23	circumventing this subsection.
24	SECTION 3. IC 5-14-3-4, AS AMENDED BY P.L.37-2000,
25	SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
26	JANUARY 1, 2002]: Sec. 4. (a) The following public records are
27	excepted from section 3 of this chapter and may not be disclosed by a
28	public agency, unless access to the records is specifically required by
29	a state or federal statute or is ordered by a court under the rules of
30	discovery:
31	(1) Those declared confidential by state statute.
32	(2) Those declared confidential by rule adopted by a public
33	agency under specific authority to classify public records as
34	confidential granted to the public agency by statute.
35	(3) Those required to be kept confidential by federal law.
36	(4) Records containing trade secrets.
37	(5) Confidential financial information obtained, upon request,
38	from a person. However, this does not include information that is
39	filed with or received by a public agency pursuant to state statute.
40	(6) Information concerning research, including actual research
41	documents, conducted under the auspices of an institution of



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higher education, including information:

1	(A) concerning any negotiations made with respect to the
2	research; and
3	(B) received from another party involved in the research.
4	(7) Grade transcripts and license examination scores obtained as
5	part of a licensure process.
6	(8) Those declared confidential by or under rules adopted by the
7	supreme court of Indiana.
8	(9) Patient medical records and charts created by a provider,
9	unless the patient gives written consent under IC 16-39.
10	(10) Application information declared confidential by the
11	twenty-first century research and technology fund board under
12	IC 4-4-5.1.
13	(b) Except as otherwise provided by subsection (a), the following
14	public records shall be excepted from section 3 of this chapter at the
15	discretion of a public agency:
16	(1) Investigatory records of law enforcement agencies. However,
17	certain law enforcement records must be made available for
18	inspection and copying as provided in section 5 of this chapter.
19	(2) The work product of an attorney representing, pursuant to
20	state employment or an appointment by a public agency:
21	(A) a public agency;
22	(B) the state; or
23	(C) an individual.
24	(3) Test questions, scoring keys, and other examination data used
25	in administering a licensing examination, examination for
26	employment, or academic examination before the examination is
27	given or if it is to be given again.
28	(4) Scores of tests if the person is identified by name and has not
29	consented to the release of his scores.
30	(5) The following:
31	(A) Records relating to negotiations between the department
32	of commerce, the Indiana development finance authority, the
33	film commission, the Indiana business modernization and
34	technology corporation, the Indiana investment company, or
35	economic development commissions with industrial, research,
36	or commercial prospects, if the records are created while
37	negotiations are in progress.
38	(B) Notwithstanding clause (A), the terms of the final offer of
39	public financial resources communicated by the department of
40	commerce, the Indiana development finance authority, the film
41	commission, the Indiana business modernization and

 $technology\, corporation, \textbf{the Indiana investment company,} or$ 



1	economic development commissions to an industrial, a
2	research, or a commercial prospect shall be available for
3	inspection and copying under section 3 of this chapter after
4	negotiations with that prospect have terminated.
5	(C) When disclosing a final offer under clause (B), the
6	department of commerce shall certify that the information
7	being disclosed accurately and completely represents the terms
8	of the final offer.
9	(6) Records that are intra-agency or interagency advisory or
10	deliberative material, including material developed by a private
11	contractor under a contract with a public agency, that are
12	expressions of opinion or are of a speculative nature, and that are
13	communicated for the purpose of decision making.
14	(7) Diaries, journals, or other personal notes serving as the
15	functional equivalent of a diary or journal.
16	(8) Personnel files of public employees and files of applicants for
17	public employment, except for:
18	(A) the name, compensation, job title, business address,
19	business telephone number, job description, education and
20	training background, previous work experience, or dates of
21	first and last employment of present or former officers or
22	employees of the agency;
23	(B) information relating to the status of any formal charges
24	against the employee; and
25	(C) information concerning disciplinary actions in which final
26	action has been taken and that resulted in the employee being
27	disciplined or discharged.
28	However, all personnel file information shall be made available
29	to the affected employee or his representative. This subdivision
30	does not apply to disclosure of personnel information generally on
31	all employees or for groups of employees without the request
32	being particularized by employee name.
33	(9) Minutes or records of hospital medical staff meetings.
34	(10) Administrative or technical information that would
35	jeopardize a recordkeeping or security system.
36	(11) Computer programs, computer codes, computer filing
37	systems, and other software that are owned by the public agency
38	or entrusted to it and portions of electronic maps entrusted to a
39	public agency by a utility.
40	(12) Records specifically prepared for discussion or developed
41	during discussion in an executive session under IC 5-14-1.5-6.1.

However, this subdivision does not apply to that information



1	required to be available for inspection and copying under
2	subdivision (8).
3	(13) The work product of the legislative services agency under
4	personnel rules approved by the legislative council.
5	(14) The work product of individual members and the partisan
6	staffs of the general assembly.
7	(15) The identity of a donor of a gift made to a public agency if:
8	(A) the donor requires nondisclosure of his identity as a
9	condition of making the gift; or
10	(B) after the gift is made, the donor or a member of the donor's
11	family requests nondisclosure.
12	(16) Library or archival records:
13	(A) which can be used to identify any library patron; or
14	(B) deposited with or acquired by a library upon a condition
15	that the records be disclosed only:
16	(i) to qualified researchers;
17	(ii) after the passing of a period of years that is specified in
18	the documents under which the deposit or acquisition is
19	made; or
20	(iii) after the death of persons specified at the time of the
21	acquisition or deposit.
22	However, nothing in this subdivision shall limit or affect
23	contracts entered into by the Indiana state library pursuant to
24	IC 4-1-6-8.
25	(17) The identity of any person who contacts the bureau of motor
26	vehicles concerning the ability of a driver to operate a motor
27	vehicle safely and the medical records and evaluations made by
28	the bureau of motor vehicles staff or members of the driver
29	licensing advisory committee. However, upon written request to
30	the commissioner of the bureau of motor vehicles, the driver must
31	be given copies of the driver's medical records and evaluations
32	that concern the driver.
33	(18) School safety and security measures, plans, and systems,
34	including emergency preparedness plans developed under 511
35	IAC 6.1-2-2.5.
36	(c) Notwithstanding section 3 of this chapter, a public agency is not
37	required to create or provide copies of lists of names and addresses,
38	unless the public agency is required to publish such lists and
39	disseminate them to the public pursuant to statute. However, if a public
40	agency has created a list of names and addresses, it must permit a
41	person to inspect and make memoranda abstracts from the lists unless
42	access to the lists is prohibited by law. The following lists of names and



1	addresses may not be disclosed by public agencies to commercial
2	entities for commercial purposes and may not be used by commercial
3	entities for commercial purposes:
4	(1) A list of employees of a public agency.
5	(2) A list of persons attending conferences or meetings at a state
6	institution of higher education or of persons involved in programs
7	or activities conducted or supervised by the state institution of
8	higher education.
9	(3) A list of students who are enrolled in a public school
10	corporation if the governing body of the public school corporation
11	adopts a policy:
12	(A) prohibiting the disclosure of the list to commercial entities
13	for commercial purposes; or
14	(B) specifying the classes or categories of commercial entities
15	to which the list may not be disclosed or by which the list may
16	not be used for commercial purposes.
17	A policy adopted under subdivision (3) must be uniform and may not
18	discriminate among similarly situated commercial entities.
19	(d) Nothing contained in subsection (b) shall limit or affect the right
20	of a person to inspect and copy a public record required or directed to
21	be made by any statute or by any rule of a public agency.
22	(e) Notwithstanding any other law, a public record that is classified
23	as confidential, other than a record concerning an adoption, shall be
24	made available for inspection and copying seventy-five (75) years after
25	the creation of that record.
26	(f) Notwithstanding subsection (e) and section 7 of this chapter:
27	(1) public records subject to IC 5-15 may be destroyed only in
28	accordance with record retention schedules under IC 5-15; or
29	(2) public records not subject to IC 5-15 may be destroyed in the
30	ordinary course of business.
31	SECTION 4. IC 14-22-10-1 IS AMENDED TO READ AS
32	FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 1. (a) A person may
33	not:
34	(1) fish, hunt, trap, or chase; or
35	(2) shoot with any kind of firearm;
36	upon privately owned land without having the consent of the owner or
37	tenant of the land.
38	(b) A person may not shoot with any kind of firearm from that
39	part of the St. Joseph River that lies between:
40	(1) the Twin Branch Dam; and
41	(2) the county line between:
42	(A) a county having a population of more than two

1	hundred thousand (200,000) but less than three hundred
2	thousand (300,000); and
3	(B) a county having a population of more than one
4	hundred fifty thousand (150,000) but less than one
5	hundred sixty thousand (160,000).

C O P



## COMMITTEE REPORT

Mr. Speaker: Your Committee on Commerce, Economic Development and Technology, to which was referred House Bill 1803, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Delete the title and insert the following:

A BILL FOR AN ACT to amend the Indiana Code concerning state and local administration.

Page 12, after line 30, begin a new paragraph and insert:

"SECTION 4. IC 14-22-10-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 1. (a) A person may not:

- (1) fish, hunt, trap, or chase; or
- (2) shoot with any kind of firearm; upon privately owned land without having the consent of the owner or tenant of the land.
- (b) A person may not shoot with any kind of firearm from that part of the St. Joseph River that lies between:
  - (1) the Twin Branch Dam; and
  - (2) the county line between:
    - (A) a county having a population of more than two hundred thousand (200,000) but less than three hundred thousand (300,000); and
    - (B) a county having a population of more than one hundred fifty thousand (150,000) but less than one hundred sixty thousand (160,000)."

and when so amended that said bill do pass.

(Reference is to HB 1803 as introduced.)

FRY, Chair

Committee Vote: yeas 14, nays 0.

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